

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CAREFREE PARK CORPORATION, AMIN
NABHAN and JAMILE NABHAN,

Plaintiffs,

v.

ADIB NABHAN,

Defendant.

Civil Action No. 2003-CV-12426 RCL

**PLAINTIFFS' MOTION IN LIMINE TO EXCLUDE TESTIMONY OF DEFENDANT'S
PROPOSED EXPERT WITNESSES**

Pursuant to the Order of this Court of November 17, 2005, plaintiffs Carefree Park Corporation ("Carefree Park"), Amin Nabhan ("Amin") and Jamile Nabhan ("Jamile") (collectively "Plaintiffs") hereby move in limine to exclude the testimony of both of the expert witnesses whom defendant Adib Nabhan ("Adib") has indicated that he intends to call at the trial of this matter. Defendant's experts should be excluded on the grounds that Adib failed to serve his expert reports in a timely manner in accordance with this Court's Order of November 2, 2004, and Plaintiffs are unduly prejudiced by Defendant's unexcused delay. In further support of their motion, Plaintiffs rely upon their supporting memorandum, submitted herewith.

Plaintiffs also wish to bring to the Court's attention the fact that defendant served the report of his real estate expert (Mr. Petersen) on January 12, 2006, i.e., the day before motions in limine were due to be filed. Defendant has not yet served the expert report of his purported accounting expert. Given the late service of the report of the real estate expert, Plaintiffs are unable to move on January 13 to exclude that expert's testimony for the additional reason that it

is wholly irrelevant. With the Court's indulgence, Plaintiffs will supplement promptly this motion in limine with the reasons why the real estate expert's testimony is irrelevant. Finally, not having yet seen the report of Defendant's accounting expert, Plaintiffs seek leave to reserve the right to supplement their motion to exclude that expert's testimony.

CAREFREE PARK CORPORATION
By its attorneys,


Robert L. Kirby, Jr. (BBO #550538)
Gordon M. Jones, III (BBO # 549016)
Nixon Peabody LLP
100 Summer Street
Boston, MA 02110-2131
(617) 345-1000

Dated: January 13, 2006

Local Rule 7.1(A)(2) Certificate

Undersigned counsel hereby certifies that he has conferred with opposing counsel in an effort to resolve or narrow the issues raised by this motion.


Robert L. Kirby, Jr. (BBO #550538)
Gordon M. Jones, III (BBO # 549016)
Nixon Peabody LLP
100 Summer Street
Boston, MA 02110-2131
(617) 345-1000

Dated: January 13, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by first class mail and electronic mail on January 13, 2006.


Robert L. Kirby, Jr.